



COUNTY OF PLACER
Community Development / Resource Agency

Michael J. Johnson, AICP
Agency Director

BUILDING

HEARING DATE: May 27, 2010
ITEM NO: 3
TIME: 10:30 AM

TO: Placer County Planning Commission
FROM: Timothy Wegner, Chief Building Official
DATE: April 4, 2010
SUBJECT: Workshop for a Zoning Text Amendment to Chapter 17, Article 17.62 of the Placer County Zoning Ordinance, establishing an Administrative Citation and Associated Hearing Process.

STAFF: Tim Wegner, Chief Building Official

LOCATION: Countywide

APPLICANT: Placer County Building Department

PROPOSAL:

The Placer County Building Department is requesting that the Placer County Planning Commission conduct a workshop on a proposal to amend section 17.62 of the Placer County Zoning Ordinance to establish an Administrative Citation and Hearing process, which will provide remedial actions for the resolution of County land-use violations.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS: A legal notice was published in the Sacramento Bee newspaper. Other appropriate public interest groups and citizens were sent copies of the public hearing notice.

BACKGROUND:

A Zoning Text Amendment to add the Administrative Citation Process was brought before the Planning Commission on February 9, 2006 and November 16, 2006 by Melanie Heckel, the former Deputy Director of Planning. At that time the Planning Commission took action to deny the proposal based primarily on concerns with the penalty provisions, specifically that the Code Enforcement Officers had the authority to determine the amount of fines levied against the violator, and that the maximum fine amount was felt to be excessive.

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Process.**

The current proposal has been revised to address those concerns by revising the fine structure and incorporating penalty provisions that are reserved for the hearing body or hearing officer rather than the Code Enforcement Staff. In order to ensure equity and balance of power the enforcement process and the decision making body charged with the penalty assignment has been separated. The intention of the current proposal is to restore citizen confidence by creating a separate process that demonstrate there is an opportunity to be heard by someone other than the enforcing officer in making a penalty decision.

DISCUSSION OF ISSUES:

The Placer County Code Enforcement Division is responsible for the enforcement of the following elements of the County Code:

- Chapter 5 – Business Licenses and Regulations
- Chapter 8 – Roads and Encroachments
- Chapter 15 – Building and Development
- Chapter 16 – Subdivisions
- Chapter 17 – Zoning, including Appendices A, Squaw Valley General Plan and Land Use Ordinance, B, Tahoe City Area Land Use Ordinance, and C, North Tahoe Area General Plan, which includes community plans for Kings Beach, Tahoe Vista, North Stateline, Carnelian Bay and Kings Beach Industrial
- Chapter 18 – Environmental Review
- Article 12.16 – Tree Preservation
- Article 15.48 – Grading

In enforcing these elements of the County Code, the Code Enforcement Division attempts to gain voluntary compliance through the use of a three step notice process that includes a Courtesy Notice, a Notice Of Violation, and a Final Notice. If compliance is not gained through this process then an Abatement Process may be initiated, a Judicial Citation may be issued, or the case may be referred to the District Attorney for prosecution. Should the latter steps be pursued for compliance, the matter is turned over to the judicial system for further action by the District Attorney or the Superior Court of California. Historically the Code Enforcement Division has seen a majority of its cases falter once they enter the judicial system for a variety of reasons, which are discussed below.

The abatement process is reserved for the more egregious violations or where extenuating circumstances exist, such as large volume/scale of debris, in cases of indigence, or impacts to critical systems such as lakes or streams. This process is time consuming and complex due to issues such as difficulty process serving, cost recovery, extensive staff resource demands, and responding to community complaints due to the lengthy time frames needed to successfully navigate the Abatement Process

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Judicial Citations are as complicated as the Abatement Process, but for different reasons. In most instances land use violations that are brought before the courts under Judicial Citation are as a result of imminent threat to health and safety of citizens, or severe community impacts resulting from the violations. However, it has become standard procedure for land use violator arraignments (the initial plea stage) and trials to be continued in favor of the defendant with little regard for the County's position or concerns. This additional time is granted by courts in addition to the three prior opportunities the property owner has been afforded by the Code Enforcement Officer through the voluntary notification process. Such continuances stretch the compliance timelines beyond that which a community can or will accept as depicted by the number of complaints the Code Enforcement Division receives due to the lengthy process.

Issuing a Judicial Citation or starting an Abatement Process has the appearance of closure, however, many cases continue for more than ten years. These lengthy timeframes result in the Code Enforcement Officer and their case files being overwhelmed by the management of these cases. Additionally, Judges may have limited knowledge of land-use law as these regulations are not standardized and each community's may be different. This requires substantial fundamental discussions covering the purpose, intent, and consequence of the law. To compound the matter County Counsel does not represent the Code Enforcement Officer or the County at any stage of the judicial process unless the defendant is represented by an attorney. This results in a hearing in which no person has a firm grasp of land use law. This lack of available land use knowledge leads to frustration on the part of the Code Enforcement Officer, land use violator, and Judge as they navigate the issue. Many times this lack of knowledge results in the law being misunderstood as witnessed by an unbalanced finding or no finding at all (not guilty). As you can see both the Abatement and Judicial processes are an inefficient and ineffective at resolving land use violations, which results in a lack of confidence by Citizens of Placer County in the ability of the Code Enforcement Division to resolve land use violations.

Another Judicial remedy to resolve the most serious and egregious land use violations is to request that the Placer County District Attorney (DA) prosecute land use violations as misdemeanors. The District Attorney has been unable to prosecute individuals cited for land use violations which prevents advancing more serious and egregious violations to a misdemeanor status. Lacking this support, repeat violators knowingly continue their past practice without consequence.

An unintended but real consequence to a judicial remedy is the impact upon the code violator's criminal record. Issuing a non-compliant land-use violator with a Judicial Citation

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may result in them being found guilty, which will establish a criminal record thus creating all the problems associated with having a criminal record. The creation of a criminal record for a land-use violation, in most instances, is unnecessary and not the intent of the Code Enforcement Division or Placer County.

The proposed Administrative Citation Process (attachment 1) before you attempts to resolve these issues by creating a balanced, effective, and, expedited process to resolve land use violations as are other municipal jurisdictions across the State. Our study found two additional communities, the City of Saratoga and Monterey County, have either recently reviewed or adopted a similar administrative citation approach. We further found an older billing statement from the California State office of Administrative Hearings demonstrating additional municipalities utilizing this process:

| Case Name | Case Type | Date | Jurisdiction |
|-----------|--|-------|--------------|
| Losey | Public Nuisance (Illegal presence of mobile home on real property) | 1-04 | Yuba County |
| Jacobs | Building (Determination of permit Requirement) | 5-06 | Pomona |
| Oakry | Public Nuisance (Debris, overgrown vegetation, unregistered vehicle with expired plates) | 11-06 | Pomona |
| Higgins | Public Nuisance, Building, and Appeal of Admin Citation (Trash and debris in front yard, broken garage door) | 12-06 | St. Clarita |
| Barner | General Nuisance and Appeal of Admin Citation (Debris and inoperable vehicle) | 2-07 | St. Clarita |
| Duffy | Public Nuisance (Illegal storage of debris and vehicles) | 7-07 | Banning |
| Preciado | Nuisance and Appeal of Admin Citation (Off-site advertisement) | 1-08 | St. Clarita |
| Kovalsky | Zoning and Appeal of Admin Citation (Insufficient setback for removable structure) | 3-08 | St. Clarita |
| Lamothe | Public Nuisance (Inoperable vehicles, auto parts, cargo containers) | 6-08 | Banning |
| Haro | Public Nuisance (Operation of pay phone without business license) | 7-08 | Pomona |
| Greco | Public Nuisance (Weeds) | 8-08 | Stanton |

FISCAL IMPACT:

The Administrative citation process includes the selection of a hearing officer. If the hearing officer is not a County employee, a cost component may be associated. If the hearing officer

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selected is a County employee, the cost of a hearing officer will be set by the hourly rate of the staff member utilized for this purpose, or the amount described in-line with Section 17.60.040 (D) of the Placer County Zoning Ordinance should a panel be desired.

It is anticipated that the process outlined herein will result in workload reduction by streamlining the court monitoring process and trial participation. Therefore, staff time saved will enable existing staff to manage the program without additional resources at this time. As this program evolves, costs and the staffing levels will be monitored for adjustment as necessary. Additional staff is not recommended at this time.

While any fines collected are processed through the Community Development Resource Agency (CDRA), these are not reimbursable accounts. Therefore, the operating cost of this process must be borne by the Agency.

RECCOMENDATION:

The Administrative Citation process before you attempts to resolve the issues discussed in the above report by creating a balanced, effective, efficient, and, expedited process to resolve land use violations. More specifically, the hearing officer or hearing body selected will be one with land-use-law knowledge thereby eliminating the knowledge-base gap found in the judicial process that will enable it to effectively and efficiently resolve land use violation in a timely manner. This will result in the resolution of land use violations in much shorter time frame than through the Judicial System and restore community confidence in the process. The Administrative Citation process is not criminal, and therefore does not create a criminal record for a land-use violation. Voluntary compliance will continue to be encouraged by the hearing officer or hearing body with the ability to use appropriate fines to gain compliance if necessary. This is in keeping with the Placer County Board of Supervisors desire to encourage voluntary compliance if possible to resolve land-use violations.

Staff recommends that the Planning Commission conduct a workshop and provide direction on the issues discussed within the Staff report.

ATTACHMENTS:

- Attachment A Proposed Zoning Text Amendments (w/mark-up)
- Attachment B Proposed Zoning Text Amendments (w/out mark-up)

**RE: Proposed ZTA, Chapter 17,
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Process.**

cc: Paul Thompson- Deputy Planning Director
Loren Clark - Deputy Planning Director
Scott Finley - County Counsel
Karin Schwab - County Counsel
Wes Zicker, Engineering and Surveying Director
Jill Pahl - Environmental Health Services
Bob Eicholtz - Emergency Services
Sherriff's Department
Air Pollution Control District
Redevelopment Agency

DRAFT

17.62.010

Administrative Final Draft

Article 17.62

CODE COMPLIANCE AND ENFORCEMENT

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Sections:

- 17.62.010 Purpose.
- 17.62.030 Enforcement administration.
- 17.62.040 Penalties.
- 17.62.050 Interference prohibited.
- 17.62.060 Right of entry/access.
- 17.62.070 Enforcement hearings.
- 17.62.080 Notices—Service and release.
- 17.62.090 Recovery of costs.
- 17.62.100 Additional processing fees.
- 17.62.110 Enforcement procedures.
- 17.62.120 Initiation of enforcement action—Notice of violation.
- 17.62.130 Judicial citation.
- 17.62.140 Forfeiture of bonds.
- 17.62.150 Injunction.
- 17.62.160 Nuisance abatement.
- 17.62.170 Permit revocation.
- 17.62.180 Administrative citation.

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17.62.010 Purpose.

This Article establishes procedures for enforcement of the provisions of ~~Chapter 5, Chapter 8, Chapter 12, Chapter 15, Chapter 16, Chapter 17, including Appendices A (Squaw Valley General Plan and Land Use Ordinance), B (Tahoe City Area Land Use Ordinance) and C (North Tahoe Area General Plan), (including the community plans of: Kings Beach, Tahoe Vista, North Stateline, Carmelian Bay and Kings Beach Industrial), and Chapter 18 of the Placer County Code.~~ The enforcement procedures of this Article are intended to support timely correction of nuisances and violations of the provisions of this Code while assuring due process of law in the abatement or correction of such nuisances and violations. (Ord. 5126-B (part), 2001)

17.62.030 Enforcement administration.

It shall be the duty of the Placer County ~~Sheriff, the Agency Director, the Chief Building Official, the Health Officer, and any employee designated by the Sheriff, the Agency Director, the Chief Building Official or the Health Officer to act as a code compliance and enforcement officer (which person shall hereinafter in this Article be referred to as a "code official")~~ to enforce the provisions of the Placer County Code as specified by this Article. A code official has the following responsibilities and authorities in the enforcement and administration of the provisions of this chapter:

- A. To review with affected individuals the provisions of the Placer County code through initiation of administrative hearings and other methods to support voluntary compliance with its provisions.
- B. To issue citations for violations of this chapter, and for violations of ~~Chapter 5, Chapter 8,~~

Chapter 12, Chapter 15, Chapter 16, Chapter 17, including Appendices A (Squaw Valley General Plan and Land Use Ordinance), B (Tahoe City Area Land Use Ordinance) and C (North Tahoe Area General Plan), (including the Community Plans of: Kings Beach, Tahoe Vista, North Stateline, Carmelian Bay and Kings Beach Industrial), and Chapter 18 of the Placer County Code, and to issue stop work orders pursuant to the provisions of the California Building Code;

C. To initiate necessary proceedings to forfeit bonds or cash deposits;

D. To initiate proceedings to revoke land use permits and other entitlements granted under this Chapter and Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code;

E. To initiate and conduct nuisance abatement proceedings and to carry out additional abatement responsibilities regarding violations of this code;

F. To work with the Chief Building Official in administering substandard building abatement programs;

G. To carry out any other special enforcement programs initiated by ordinance, order or resolution of the board of supervisors, and any other responsibilities and authorities specified by this subchapter or this code;

H. To recover enforcement investigation and processing costs. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

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17.62.040 Penalties.

Unless a different penalty is prescribed for violation of a specific provision of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code, any person violating any such provisions or failing to comply with the requirements of this code is guilty of an infraction and is subject to penalty for infractions as provided by Section 1.24.010 of this Code; provided, however, that any person who violates any of the provisions or fails to comply with any of the requirements of this Code, and who has previously been convicted and/or has plead guilty on two or more occasions (regardless of the number of separate counts on each occasion) during any twelve-month period for any crime made punishable by this Chapter shall be guilty of a misdemeanor, and subject to penalty for misdemeanors as provided by Section 1.24.010 of this Code. (Ord. 5126-B (part), 2001)

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17.62.050 Interference prohibited.

No person shall obstruct, impede or interfere with the code official or any other county employee, contractor or other authorized representative in the performance of code enforcement and nuisance abatement duties pursuant to this Code. (Ord. 5126-B (part), 2001)

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17.62.060 Right of entry/access.

When it is necessary to make an inspection to enforce the provisions of this Chapter, or when a code official has reasonable cause to believe that there exists in a building or upon a site a condition which is contrary to or in violation of the sections of this Code cited in Section 17.62.010, the code official may enter the building or site at reasonable times to inspect or to perform duties imposed by this Chapter, provided that if such building or site is occupied at the time of inspection, proper credentials shall be presented to the occupant and entry shall be requested. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or site and shall request entry to the building or site. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry/access. (Ord. 5126-B (part), 2001)

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17.62.070 Enforcement hearings.

Hearings conducted for the purposes of permit revocation, nuisance abatement, or appeals on the forfeiture

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of bonds, shall be conducted as follows:

A. Hearing Body. An enforcement hearing shall be conducted by the hearing body assigned to the specific enforcement procedure.

B. Conduct of Hearing. The appropriate hearing body shall conduct an enforcement hearing as follows:

1. The hearing body will hear sworn testimony and consider other evidence concerning the conditions constituting cause to revoke approval or conditional approval, to forfeit bond, or to abate a nuisance.

2. County officials and respondents to enforcement actions may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine any and all witnesses.

3. The hearing need not be conducted according to technical rules relating to evidence and witnesses, and may be continued from time to time.

4. The hearing body will deliberate upon the evidence and shall make findings upon such evidence to support any action of the hearing body to revoke approval or conditional approval, abate a nuisance, or deny an appeal on the forfeiture of a bond. Thereafter the hearing body shall issue its order to the respondent. (Ord. 5126-B (part), 2001)

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17.62.080 Notices—*Service and release.*

A. Service of Notice. Any notice required by this Article shall be served in one or more of the methods listed below, except where this Article provides otherwise:

1. Personal Service. A copy of the notice shall be served personally on the Owner.

2. Mailed Notice. A copy of the notice shall be served by first class mail and registered mail, return receipt requested, to:

a. The Owner of the affected premises at the address for the Owner as shown on the last equalized assessment role. If no address can be found for the Owner as a result of a good faith effort by the code official to locate such an address, then the notice shall be mailed to the Owner at the address of the premises affected by the proceedings. If no address for the Owner can be found and the property is uninhabited, then the notice shall be published in a newspaper of general circulation in the area of the property; and

b. Any person in real or apparent possession or control of the affected property, mobilehome, recreational vehicle or other vehicles.

c. The failure of the Owner to receive a notice which has been properly addressed and mailed in accordance with this Section does not affect the validity of any proceedings taken hereunder.

3. Posted Notice. A copy of the notice shall be prominently and conspicuously placed upon the premises affected by the enforcement proceedings.

B. Recorded Notice. A copy of any notice required by this Chapter may be recorded in the office of the County Recorder of Placer County, except for a revocation of a bond or performance guarantee.

1. Release of Notice. Where a notice has been served as required by this section and a hearing body has determined that sufficient grounds do not exist for nuisance abatement, or where the owner of an affected premises has corrected the condition that was the basis for initiation of enforcement action, the code official shall record a satisfaction release and removal of notice of nuisance or notice of nuisance abatement.

2. Payment of Costs Prior to Release. In the event that enforcement costs have been incurred in the investigation/processing of a violation for which a notice is required, the release of such notice shall not be recorded until all such costs have been reimbursed to Placer County, (Ord. 5126-B (part), 2001)

17.62.090 Recovery of costs.

This section establishes procedures for the recovery of administrative costs incurred by the County in the abatement of conditions defined as a nuisance by Section 17.62.160(A), where no permit is required by any provision in Chapters 5, 8, 12, 15, 16, 17, or 18 of this Code to correct or abate the nuisance, and where a nuisance is abated before initiation of the procedures specified by Section 17.62.160(D) et seq., of this chapter. In cases where a permit

is required by Chapters 15 or 17, the procedure for cost recovery set forth in Section 17.62.100 shall be used instead.

A. **Definition of Costs.** For the purposes of this chapter, costs shall mean administrative costs, including County staff time expended and reasonably related to nuisance abatement cases where no permit is required to correct the nuisance, for items including but not limited to investigation, site inspection and monitoring, reports, telephone contacts, correspondence and meetings and hearings with affected parties.

B. **Cost Accounting and Recovery Required.** The code official shall maintain records of all administrative costs incurred by responsible county departments that participate in the enforcement process specified in this subchapter, and shall recover the costs from the property owner as provided by this section. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board of Supervisors, which shall be stated in the most current Community Development Resource Agency staff fee schedule.

C. **Notice of Cost Recovery Requirements.** The code official shall include in the notice of violation required by Section 17.62.120(A) a statement of the intent of the County to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing if he or she objects to such charges. The notice shall state that the property owner will receive at the conclusion of the enforcement case a summary of administrative costs associated with the processing of the enforcement case at the hourly rate in effect at the time the case is initiated. The notice shall state that the property owner will have the right to object to the charges by filing a written request for hearing with the Chief Building Official within fourteen days of service of the summary of costs, pursuant to subsection D of this section.

D. **Summary of Costs.** At the conclusion of the enforcement case, the code official shall send a summary of costs associated with enforcement to the property owner by certified mail. The summary shall include a notice that states that if the owner objects to the charges, a request for hearing must be filed as provided by subsection E of this section, and that if no such hearing is requested, the owner's right to object will be waived and he or she will be fully liable for the charges, pursuant to subsection F of this section.

E. **Hearing on Objection to Charges.** Any property owner who receives a summary of costs pursuant to subsection D of this section shall have the right to a hearing before the Chief Building Official on his or her objections to the proposed costs, as follows:

1. **Request for Hearing.** A request for hearing shall be filed with Chief Building Official within fourteen days of the service by mail of the summary of costs, in the form of a letter explaining the reasons why the property owner believes the costs are incorrect or that county action to recover the costs is unreasonable.

2. **Scheduling of Hearing.** Within thirty days of the filing of the request for hearing, the Chief Building Official shall hold a hearing to consider the owner's objections and to determine whether the administrative costs shown in the summary of costs for the enforcement action are valid.

3. **Decision by Chief Building Official.** In determining whether the costs are valid, the Chief Building Official shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to:

a. Whether the present owner created the violation and/or has the ability to correct the violation; and/or

b. Whether the owner moved promptly to correct the violation or otherwise cooperated in the abatement of the nuisance.

4. **Appeal.** The property owner may apply for the review by the Agency Director, and thereafter appeal the decision to the Planning Commission by using the procedure in Section 17.60.110.

F. **Collection of Charges.** If no request for hearing is filed pursuant to subsection E of this section, or after a hearing or appeal the validity of the costs is affirmed, the property owner shall be liable to the County in the amount stated. Such costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the county. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

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17.62.100 Additional processing fees.

Any person who establishes a use of land or erects, constructs, allows, enlarges, moves or maintains any building or structure without first having obtained any permit required by Chapters 15 or 17 of this Code, shall pay the additional permit processing fees established by the conditions of approval of such permit(s) or by the most

current Community Development Resource Agency fee schedule for the correction of violations, whichever is appropriate, before any permit for any building, structure or use on the site is issued. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

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17.62.110 ***Enforcement procedures.***

The code official is empowered to use any of the procedures described by Sections 17.62.120 through 17.62.180 where appropriate to correct violations of, and secure compliance with, the provisions of this Code. (Ord. 5126-B (part), 2001)

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17.62.120 ***Initiation of enforcement action—Notice of violation.***

The code official shall employ the procedures of this section in the initiation of enforcement action in cases where he or she has determined that real property within the unincorporated areas of the County is being used, maintained, or allowed to exist in violation of the provisions Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations of this Code, so that the other enforcement measures provided by this Chapter may be avoided where prompt correction occurs.

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A. Notice to Responsible Parties. The code official shall provide the Owner of the subject site and any person having possession or control of the site with a written notice of violation, which shall include the following information:

1. A time limit for correction of the violation pursuant to subsection B of this section;

2. A statement that the County intends to: (i) charge the property owner for all administrative costs associated with abatement of conditions defined as a nuisance by Section 17.62.160(A), pursuant to Section 17.62.090 (Recovery of costs); and/or (ii) issue a citation initiating a judicial or administrative action;

3. A statement that the property owner may request and be provided a meeting with the code official to discuss possible methods and time limits for the correction of identified violations.

B. Time Limit for Correction. The notice of violation pursuant to subsection A shall state that the violation must be corrected within thirty (30) days from the date of the notice to avoid further enforcement action by the county, unless the responsible party contacts the code official within that time to arrange for a longer period for correction. The thirty (30) day time limit may be extended at the discretion of the code official where he or she determines it is likely that the responsible party will correct the violation within a reasonable time. The notice may also state the requirement by the code official that correction shall occur within less than thirty days if the code official determines that the violation constitutes a hazard to health or safety.

C. Use of other Enforcement Procedures. The enforcement procedures of Sections 17.62.130 through 17.62.180 may be employed by the code official after or instead of the provisions of this section in any case where the code official determines that the provisions of this section would be ineffective in securing the correction of the violation within a reasonable time. (Ord. 5126-B (part), 2001)

17.62.130 ***Judicial citation.***

The code official is authorized to issue a judicial citation in the form of a "Notice to Appear" to any person who violates any of the provisions of Chapters 5, 8, 12, 15, 16, 17 or 18 of the Placer County Code or who violates any conditions that apply to a land use permit issued by the County. Issuance of a judicial citation shall be pursuant to Article 1.16 of the Placer County Code. Penalties for violation are established by Section 17.62.040 (Penalties) of this Article. (Ord. 5126-B (part), 2001)

17.62.140 ***Forfeiture of bonds.***

17.62.150

The code official may initiate procedures to forfeit all or a portion of a bond or cash deposit that has been required pursuant to Section 17.58.190 of this Chapter or to any other of the provision of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. (Ord. 5126-B (part), 2001)

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17.62.150 Injunction.

The code official may work with County Counsel and/or the District Attorney to secure injunctive relief to terminate a violation of any of the provisions of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. (Ord. 5126-B (part), 2001)

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17.62.160 Nuisance abatement.

The code official may employ the provisions of this section to secure the abatement of nuisances, as defined by this section.

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A. Nuisance Defined. A "nuisance" shall be any of the following:

1. Any condition declared by a statute of the state of California or by an ordinance of Placer County

to be a nuisance;

2. Any public nuisance known at common law or equity;

3. Any condition dangerous to human life, unsafe, or detrimental to the public health or safety;

4. Any use of land, buildings, or premises established, operated, or maintained contrary to the

provisions of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code.

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B. Notice of Nuisance. Upon the determination by the code official that a nuisance exists, a Notice of Nuisance may be prepared and copies served as provided by Section 17.62.080. A Notice of Nuisance shall include the following information:

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1. A legal description and street address, assessor's parcel number, or other description sufficient to identify the premises affected;

2. A description of the conditions causing the nuisance. Where the code official has determined that such conditions can be corrected or abated by repair or corrective action, the notice shall identify the repairs or corrective actions that will be required, and the time limit within which the nuisance must be corrected;

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3. An order to complete abatement of the nuisance within thirty (30) days or other reasonable time period as determined by the code official;

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4. A statement that if the nuisance is not corrected as specified, a hearing will be held before the Building Board of Appeals for violations of Chapter 15 of this Code or before the Planning Commission for violations of Chapter 17 of this Code, to consider whether to order abatement of the nuisance and to consider the levy of a special assessment which may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes pursuant to Section 25845 of the Government Code. Special assessments are subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency as is provided for ordinary county taxes;

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5. A statement that the County may charge the property owner for all administrative costs associated with abatement of the nuisance pursuant to Section 17.62.090;

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6. Where the code official, in consultation with appropriate County officials, has determined that the condition causing the nuisance is imminently dangerous to life or limb, or to public health or safety, the notice may include an order that the affected property, building or structure shall be vacated, pending correction or abatement of the conditions causing the nuisance.

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C. Notice of Nuisance Abatement. If, upon the expiration of the time specified in the Notice of Nuisance, action to abate the nuisance has not been commenced, or, if it has been commenced, it has not been prosecuted with due diligence nor completed within the time specified, the code official shall prepare a Notice of Nuisance Abatement, and serve such notice as provided by Section 17.62.080. The Notice of Nuisance Abatement shall contain the following:

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1. A heading, "Notice of Nuisance Abatement";

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2. A notice to appear before hearing body identified in subsection (D)(1) of this section at a stated time and place to show cause why stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the code official;

3. The same information specified in subsection B of this section for a Notice of Nuisance.

D. Abatement Proceedings. When a Notice of Nuisance Abatement has been prepared and served pursuant to subsection C of this section, nuisance abatement shall proceed as follows:

1. Hearing. A hearing on nuisance abatement shall be conducted by the Building Board of Appeals for violations of Chapter 15 of this Code, and by the Planning Commission for violations of Chapter 17 of this Code. A decision to abate a nuisance shall be at the discretion of the applicable hearing body after a hearing is conducted pursuant to Section 17.62.070.

2. Order by Hearing Body. Upon the conclusion of the hearing, the appropriate hearing body may terminate the abatement proceedings or it may order:

a. That the owner or affected person shall abate the nuisance, prescribing a reasonable time (not less than thirty (30) days) for completion of abatement;

b. That a request for additional time to complete abatement by a person subject to an abatement order shall be granted only if the affected person guarantees abatement within the time to be granted by submitting a performance guarantee instrument acceptable to the hearing body (e.g., a letter of credit, a certificate of deposit, etc.) or, where applicable, a performance guarantee instrument pursuant to the requirements of Chapter 17 of this Code;

c. That, in the event abatement is not commenced, conducted and completed in accordance with the terms set by the hearing body, the code official is empowered and authorized to abate the nuisance.

3. Service of Order. The order of the hearing body shall be served as provided by Section 17.62.080(A), except that the order need not be posted on the property or recorded pursuant to Section 17.62.080(A)(3).

4. Commencement of Time Limits. The time limits set by the hearing body for completion of abatement or other required actions shall begin upon service of the notice, unless the order of the hearing body sets specific dates for completion of abatement.

5. Compliance with Order Required. It is unlawful and a violation of this Code for any person to fail to comply with the provisions of an order of the Building Board of Appeals or the Planning Commission pursuant to this section. The penalty for failure to comply with such an order shall be as set forth in Section 17.62.040 (Penalties).

E. Abatement Penalties and Costs. Upon expiration of the time limits established by subsection (D)(4) of this section, the code official shall acquire jurisdiction to abate the nuisance, and shall carry out the following as appropriate:

1. Disposal of Materials. Any materials in or constituting any nuisance abated by the code official may be disposed of, or if directed by the hearing body and where such materials are of substantial value, sold directly by the Administrative Services Department or Chief Building Official in a manner approved by County Counsel, or sold in the same manner as surplus county personal property is sold.

2. Account of Costs and Receipts and Notice of Assessment. The code official will keep an itemized account of the costs of enforcing the provisions of this section, and of the proceeds of the sale of any materials connected therewith. Upon completion of abatement, the code official shall prepare a notice to be served as provided in Section 17.62.080(A) and (B), specifying:

a. The work done;

b. An itemized account of the costs and receipts of performing the work;

c. An address, legal description, or other description sufficient to identify the premises;

d. The amount of the assessment proposed to be levied against the premises, or the amount to be returned, if any, from any performance guarantee instrument;

e. The time and place where the code official will submit the account to the Board of Supervisors for confirmation. The time and place specified shall be not less than fifteen (15) days after service of the notice;

f. A statement that the Board of Supervisors will hear and consider objections and protests to said account and proposed assessment or refund.

3. Hearing on Account and Proposed Assessment. At the time and place fixed in the notice, the Board

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of Supervisors will hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the Board may make such modifications and revisions of the proposed account and assessment as it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the Board as to all matters contained therein is final and conclusive.

4. Notice of Lien. Upon confirmation of an assessment by the Board, the code official shall notify the owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Board, and advise them that they may pay the account in full within thirty (30) days to the Chief Building Official in order to avoid the lien being recorded against the property. If the lien amount is not paid by the date stated in the letter, the code official shall prepare and have recorded in the office of the County Recorder of Placer County a Notice of Lien. The Notice of Lien shall contain:

- a. A legal description, address and/or other description sufficient to identify the premises;
 - b. A description of the proceeding under which the special assessment was made, including the order of the Board confirming the assessment;
 - c. The amount of the assessment;
 - d. A claim of lien upon the described premises.
5. Lien. Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described premises, pursuant to Section 25845 of the Government Code. Such lien shall be at a parity with the liens of state and county taxes.

6. Collection With Ordinary Taxes. After recordation, the Notice of Lien shall be delivered to the County Auditor, who will enter the amount of the lien on the assessment roll as a special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary county taxes, and is subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as are provided for ordinary county taxes; all laws applicable to the levy, collection and enforcement of county taxes are hereby made applicable to such assessment. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

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17.62.170 Permit revocation.

The code official may initiate proceedings as provided by this section to revoke the approval of any land use permit issued pursuant to any provision of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code, in any case where it is determined that the permit was obtained through misrepresentation, or where a use of land has been established or is conducted in a manner that violates or fails to comply with the provisions of this Code or a condition of approval, or where the use of land is undertaken in violation of any local, state or federal law which affects the health, safety, peace, morals or general welfare of the public.

A. Notice of Revocation. The code official shall notify the permittee of the intended revocation of the approval of a land use permit at least twenty-one (21) days before a revocation hearing (Section 17.62.070, Enforcement hearings). Such notice shall contain the following:

1. A heading reading, "Notice of Revocation Hearing";
2. The provisions and/or conditions violated and the means to correct the violation(s), if any;
3. The date and place of the revocation hearing.

B. Revocation Hearing. Before any action is taken to revoke an approved land use permit, a hearing shall be conducted pursuant to Section 17.62.070. If the land use permit to be revoked is a conditional use permit, the revocation hearing shall be conducted by the Planning Commission. If revocation of a minor use permit, an administrative review permit or zoning clearance is being considered, the hearing shall be conducted by the Agency Director or designee acting as Zoning Administrator.

C. Action to Revoke. If, after the revocation hearing has been conducted, the hearing body finds that grounds for revocation have been established, the hearing body may:

1. Allow the permitted additional time to correct the violation or noncompliance; or
2. Modify conditions of approval on the basis of evidence presented at the hearing; or
3. Revoke the approved land use permit and order the discontinuance or removal of the approved use within a time specified by the hearing body. In the absence of an appeal pursuant to subsection D of this section, the

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revocation shall become effective fourteen (14) days after the action of the hearing body. Upon the effective date of revocation, the code official shall initiate nuisance abatement proceedings by preparing and serving a notice of nuisance pursuant to Section 17.62.160(B), with the time limit for action by the permittee specified in the notice being that set by the hearing body in the revocation order.

D. Appeal. The permittee may appeal the decision of the hearing body to the Board of Supervisors. Upon appeal, revocation shall not take effect until affirmed by the Board. After the hearing, the Board may affirm, modify or reverse the decision to revoke the permit.

E. Use after Revocation. When an approved land use permit has been revoked, no further development or use of the property authorized by the revoked permit shall be continued, except pursuant to approval of a new land use permit and any other authorizations or permits required by Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

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17.62.180 Administrative citation

This section provides for the issuance of administrative citations and imposition of fines as authorized by State law, and is in addition to all other legal remedies, criminal or civil, which may be pursued by the County. The code official is authorized by the Board of Supervisors to employ the provisions of this section and issue an administrative citation to any person who violates any provision of Chapters 5, 8, 12, 15, 16, 17, or 18 of this Code and for nuisances defined in section 17.62.160(A).

A. Warning of an Administrative Citation.

1. Whenever the code official determines that a violation has occurred, the code official shall issue a warning of an administrative citation to the Owner and, if known, any other person responsible for the violation as a prerequisite to the issuance of a first administrative citation.
2. A warning shall not be required before the issuance of a second or any subsequent administrative citation for a continuing or repeated violation.
3. A warning shall include all of the information mandated by section 17.62.120.
4. A notice of violation pursuant to section 17.62.120 shall constitute a warning under this subsection.

B. Administrative Citation.

1. Whenever the code official determines that a violation has occurred, the code official may issue an administrative citation to the Owner of the property after any required warning has first been issued. Each and every day during which a violation is committed, continued or permitted shall constitute a separate violation. An administrative citation may contain more than one allegation of violation.
2. Each administrative citation shall contain the following information:
 - a. The date(s) of the violation;
 - b. The address, or APN, and description of the location where the violation occurred;
 - c. The code section(s) violated, a description of the violation, and the dates the violation has occurred;
 - d. The date, location, and time of the hearing for which these matters are to be heard before the Placer County Hearing Officer;
 - e. A description of the administrative citation review process, including the potential maximum amount of the fine that may be assessed by the hearing officer; and
 - f. The name and signature of the citing code official.

C. Service of Warning or Administrative Citation. Service of a warning or an administrative citation may be accomplished as provided for in section 17.62.080. Where personal service is used, the signature of the Owner or person in apparent possession or control of the subject site may be obtained on the administrative citation. If the

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Owner or person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of service nor of the citation and subsequent proceedings.

D. Hearing

1. Hearing Officer. "Hearing Officer" shall mean the person or persons appointed by the Agency Director to preside over an administrative hearing provided for in this section.

2. Hearing Procedure. The procedure for hearings shall otherwise be the same as set forth in Section 17.62.070, and:

- a. At the hearing, the party issued the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation;
- b. The failure of the party issued the administrative citation to appear at the administrative citation hearing shall constitute a failure to exhaust administrative remedies;
- c. The administrative citation and any additional report submitted by the code official shall constitute prima facie evidence of the respective facts contained in those documents. The code official is required to appear at an administrative citation hearing;
- d. The Hearing Officer may continue the hearing to receive additional information prior to issuing a written decision;
- e. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

3. Hearing Officer's Decision.

- a. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold, uphold in part or deny the administrative citation and shall list in the decision the reasons for that decision.
- b. If the Hearing Officer determines that the administrative citation should be upheld, the Hearing Officer may: issue an order prohibiting the continuance of conditions constituting the violation, impose a fine for each day the violation has occurred or will continue to occur, suspend payment of any fine contingent upon correction of the violation within a specified time period, or take such other action with respect to imposing a fine in accordance with this Article as will facilitate correction of the violation.
- c. The Hearing Officer shall serve a copy of the decision to the Owner and the County.
- d. The decision of the Hearing Officer as to the finding of a violation pursuant to subsection (a), above, shall be conclusive and final. The decision of the Hearing Officer as to the imposition of penalties pursuant to subsection (b), above, may be appealed to the Planning Commission by any person responsible for correction of the violation or payment of the fine, but the decision of the Hearing Office as to uphold, uphold in part or deny the administrative citation pursuant to subsection (a), above, shall be final.

4. Appeal to Planning Commission of Penalty Only. An appeal of the penalty to the Planning Commission must be filed within twenty (20) calendar days from the date of service of the Hearing Officer's written decision, accompanied by the appeal fee established in the Planning Department's fee schedule. The Planning Commission may uphold, uphold in part or deny the appeal and shall list in the decision the reasons for that decision. The failure of any cited party to properly file a request for appeal within the time specified in this subsection shall constitute a waiver of the right to further review and adjudication of the penalty or any portion thereof. The procedure for appeal to the Planning Commission shall otherwise be the same as set forth in Section 17.60.110. The decision of the Planning Commission as to penalties shall be final.

5. Right to Judicial Review. Any cited party aggrieved by the final decision of the Hearing Officer or of the Planning Commission on an administrative citation may obtain review of the administrative decision in accordance with the timelines and provisions set forth in California Government Code section 53069.4.

E. Amount of Fines.

1. The fine for code violation(s) imposed pursuant to this section shall be up to one hundred dollars (\$100.00) for each violation contained in the first administrative citation; up to five hundred dollars (\$500.00)

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for each violation contained in a second administrative citation issued for violation of the same ordinance or other provision on the same property, within one year of the final date that a prior administrative citation for a violation of the same provision on the same property was upheld (in whole, part, or as modified) or uncontested; up to one thousand dollars (\$1,000.00) for each violation contained in a third or subsequent administrative citation issued for violation of the same ordinance or other provision on the same property, within one year of the final date that a prior administrative citation for a violation of the same provision on the same property was upheld (in whole, part, or as modified) or uncontested. The fine amounts shall be cumulative where multiple citations are issued.

2. A late payment charge shall be paid to the County in the amount specified in subsection G, if a fine has not been paid in full to the County on the date on which it is due.

F. Payment of the Fine.

1. The fine shall be paid to the County in accordance with the payment schedule as determined by the decision of the Hearing Officer or the Planning Commission.

2. Payment of a fine under this section shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation.

G. Collection Administration Charge. Any cited party who fails to pay to the County any fine imposed pursuant to the provisions of this section on or before the date that fine is due shall also be liable for the payment of a collection administration charge in the amount of ten percent (10%) of the total fine amount owed.

H. Recovery of Administrative Citation Fines and Collection Costs. The County may also recover its costs and collection costs pursuant to section 17.62.090. The failure of any cited party to pay a fine assessed by an administrative citation or a collection administration charge by the due date shall constitute a "Debt to the County." The County may seek payment of the Debt by use of all available legal means, including but not limited to the following:

1. The County may refer the Debt for collection.
2. The County may file a civil action in a court of law to recover the debt.
3. The County may impose an assessment and record a code enforcement lien upon the real property upon which the violation is located pursuant to the procedures provided in section 17.62.160(E)(4).

Administrative Final Draft

Article 17.62

CODE COMPLIANCE AND ENFORCEMENT

Sections:

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|-----------|--|
| 17.62.010 | Purpose. |
| 17.62.030 | Enforcement administration. |
| 17.62.040 | Penalties. |
| 17.62.050 | Interference prohibited. |
| 17.62.060 | Right of entry/access. |
| 17.62.070 | Enforcement hearings. |
| 17.62.080 | Notices—Service and release. |
| 17.62.090 | Recovery of costs. |
| 17.62.100 | Additional processing fees. |
| 17.62.110 | Enforcement procedures. |
| 17.62.120 | Initiation of enforcement action—Notice of violation. |
| 17.62.130 | Judicial citation. |
| 17.62.140 | Forfeiture of bonds. |
| 17.62.150 | Injunction. |
| 17.62.160 | Nuisance abatement. |
| 17.62.170 | Permit revocation. |
| 17.62.180 | Administrative citation. |

17.62.010 Purpose.

This Article establishes procedures for enforcement of the provisions of Chapter 5, Chapter 8, Chapter 12, Chapter 15, Chapter 16, Chapter 17, including Appendices A (Squaw Valley General Plan and Land Use Ordinance), B (Tahoe City Area Land Use Ordinance) and C (North Tahoe Area General Plan), (including the community plans of: Kings Beach, Tahoe Vista, North Stateline, Carnelian Bay and Kings Beach Industrial), and Chapter 18 of the Placer County Code. The enforcement procedures of this Article are intended to support timely correction of nuisances and violations of the provisions of this Code while assuring due process of law in the abatement or correction of such nuisances and violations. (Ord. 5126-B (part), 2001)

17.62.030 Enforcement administration.

It shall be the duty of the Placer County Sheriff, the Agency Director, the Chief Building Official, the Health Officer, and any employee designated by the Sheriff, the Agency Director, the Chief Building Official or the Health Officer to act as a code compliance and enforcement officer (which person shall hereinafter in this Article be referred to as a "code official") to enforce the provisions of the Placer County Code as specified by this Article. A code official has the following responsibilities and authorities in the enforcement and administration of the provisions of this chapter:

- A. To review with affected individuals the provisions of the Placer County code through initiation of administrative hearings and other methods to support voluntary compliance with its provisions.
- B. To issue citations for violations of this chapter, and for violations of Chapter 5, Chapter 8,

Chapter 12, Chapter 15, Chapter 16, Chapter 17, including Appendices A (Squaw Valley General Plan and Land Use Ordinance), B (Tahoe City Area Land Use Ordinance) and C (North Tahoe Area General Plan), (including the Community Plans of: Kings Beach, Tahoe Vista, North Stateline, Carnelian Bay and Kings Beach Industrial), and Chapter 18 of the Placer County Code, and to issue stop work orders pursuant to the provisions of the California Building Code;

- C. To initiate necessary proceedings to forfeit bonds or cash deposits;
- D. To initiate proceedings to revoke land use permits and other entitlements granted under this Chapter and Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code;
- E. To initiate and conduct nuisance abatement proceedings and to carry out additional abatement responsibilities regarding violations of this code;
- F. To work with the Chief Building Official in administering substandard building abatement programs;
- G. To carry out any other special enforcement programs initiated by ordinance, order or resolution of the board of supervisors, and any other responsibilities and authorities specified by this subchapter or this code;
- H. To recover enforcement investigation and processing costs. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

17.62.040 Penalties.

Unless a different penalty is prescribed for violation of a specific provision of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code, any person violating any such provisions or failing to comply with the requirements of this code is guilty of an infraction and is subject to penalty for infractions as provided by Section 1.24.010 of this Code; provided, however, that any person who violates any of the provisions or fails to comply with any of the requirements of this Code, and who has previously been convicted and/or has plead guilty on two or more occasions (regardless of the number of separate counts on each occasion) during any twelve-month period for any crime made punishable by this Chapter shall be guilty of a misdemeanor, and subject to penalty for misdemeanors as provided by Section 1.24.010 of this Code. (Ord. 5126-B (part), 2001)

17.62.050 Interference prohibited.

No person shall obstruct, impede or interfere with the code official or any other county employee, contractor or other authorized representative in the performance of code enforcement and nuisance abatement duties pursuant to this Code. (Ord. 5126-B (part), 2001)

17.62.060 Right of entry/access.

When it is necessary to make an inspection to enforce the provisions of this Chapter, or when a code official has reasonable cause to believe that there exists in a building or upon a site a condition which is contrary to or in violation of the sections of this Code cited in Section 17.62.010, the code official may enter the building or site at reasonable times to inspect or to perform duties imposed by this Chapter, provided that if such building or site is occupied at the time of inspection, proper credentials shall be presented to the occupant and entry shall be requested. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or site and shall request entry to the building or site. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry/access. (Ord. 5126-B (part), 2001)

17.62.070 Enforcement hearings.

Hearings conducted for the purposes of permit revocation, nuisance abatement, or appeals on the forfeiture

of bonds, shall be conducted as follows:

- A. **Hearing Body.** An enforcement hearing shall be conducted by the hearing body assigned to the specific enforcement procedure.
- B. **Conduct of Hearing.** The appropriate hearing body shall conduct an enforcement hearing as follows:
 - 1. The hearing body will hear sworn testimony and consider other evidence concerning the conditions constituting cause to revoke approval or conditional approval, to forfeit bond, or to abate a nuisance.
 - 2. County officials and respondents to enforcement actions may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine any and all witnesses.
 - 3. The hearing need not be conducted according to technical rules relating to evidence and witnesses, and may be continued from time to time.
 - 4. The hearing body will deliberate upon the evidence and shall make findings upon such evidence to support any action of the hearing body to revoke approval or conditional approval, abate a nuisance, or deny an appeal on the forfeiture of a bond. Thereafter the hearing body shall issue its order to the respondent. (Ord. 5126-B (part), 2001)

17.62.080 Notices—Service and release.

- A. **Service of Notice.** Any notice required by this Article shall be served in one or more of the methods listed below, except where this Article provides otherwise:
 - 1. **Personal Service.** A copy of the notice shall be served personally on the Owner.
 - 2. **Mailed Notice.** A copy of the notice shall be served by first class mail and registered mail, return receipt requested, to:
 - a. The Owner of the affected premises at the address for the Owner as shown on the last equalized assessment role. If no address can be found for the Owner as a result of a good faith effort by the code official to locate such an address, then the notice shall be mailed to the Owner at the address of the premises affected by the proceedings. If no address for the Owner can be found and the property is uninhabited, then the notice shall be published in a newspaper of general circulation in the area of the property; and
 - b. Any person in real or apparent possession or control of the affected property, mobilehome, recreational vehicle or other vehicles.
 - c. The failure of the Owner to receive a notice which has been properly addressed and mailed in accordance with this Section does not affect the validity of any proceedings taken hereunder.
 - 3. **Posted Notice.** A copy of the notice shall be prominently and conspicuously placed upon the premises affected by the enforcement proceedings.
- B. **Recorded Notice.** A copy of any notice required by this Chapter may be recorded in the office of the County Recorder of Placer County, except for a revocation of a bond or performance guarantee.
 - 1. **Release of Notice.** Where a notice has been served as required by this section and a hearing body has determined that sufficient grounds do not exist for nuisance abatement, or where the owner of an affected premises has corrected the condition that was the basis for initiation of enforcement action, the code official shall record a satisfaction release and removal of notice of nuisance or notice of nuisance abatement.
 - 2. **Payment of Costs Prior to Release.** In the event that enforcement costs have been incurred in the investigation/processing of a violation for which a notice is required, the release of such notice shall not be recorded until all such costs have been reimbursed to Placer County. (Ord. 5126-B (part), 2001)

17.62.090 Recovery of costs.

This section establishes procedures for the recovery of administrative costs incurred by the County in the abatement of conditions defined as a nuisance by Section 17.62.160(A) where no permit is required by any provision in Chapters 5, 8, 12, 15, 16, 17, or 18 of this Code to correct or abate the nuisance, and where a nuisance is abated before initiation of the procedures specified by Section 17.62.160(D) et seq., of this chapter. In cases where a permit

is required by Chapters 15 or 17, the procedure for cost recovery set forth in Section 17.62.100 shall be used instead.

A. **Definition of Costs.** For the purposes of this chapter, costs shall mean administrative costs, including County staff time expended and reasonably related to nuisance abatement cases where no permit is required to correct the nuisance, for items including but not limited to investigation, site inspection and monitoring, reports, telephone contacts, correspondence and meetings and hearings with affected parties.

B. **Cost Accounting and Recovery Required.** The code official shall maintain records of all administrative costs incurred by responsible county departments that participate in the enforcement process specified in this subchapter, and shall recover the costs from the property owner as provided by this section. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board of Supervisors, which shall be stated in the most current Community Development Resource Agency staff fee schedule.

C. **Notice of Cost Recovery Requirements.** The code official shall include in the notice of violation required by Section 17.62.120(A) a statement of the intent of the County to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing if he or she objects to such charges. The notice shall state that the property owner will receive at the conclusion of the enforcement case a summary of administrative costs associated with the processing of the enforcement case at the hourly rate in effect at the time the case is initiated. The notice shall state that the property owner will have the right to object to the charges by filing a written request for hearing with the Chief Building Official within fourteen days of service of the summary of costs, pursuant to subsection D of this section.

D. **Summary of Costs.** At the conclusion of the enforcement case, the code official shall send a summary of costs associated with enforcement to the property owner by certified mail. The summary shall include a notice that states that if the owner objects to the charges, a request for hearing must be filed as provided by subsection E of this section, and that if no such hearing is requested, the owner's right to object will be waived and he or she will be fully liable for the charges, pursuant to subsection F of this section.

E. **Hearing on Objection to Charges.** Any property owner who receives a summary of costs pursuant to subsection D of this section shall have the right to a hearing before the Chief Building Official on his or her objections to the proposed costs, as follows:

1. **Request for Hearing.** A request for hearing shall be filed with Chief Building Official within fourteen days of the service by mail of the summary of costs, in the form of a letter explaining the reasons why the property owner believes the costs are incorrect or that county action to recover the costs is unreasonable.

2. **Scheduling of Hearing.** Within thirty days of the filing of the request for hearing, the Chief Building Official shall hold a hearing to consider the owner's objections and to determine whether the administrative costs shown in the summary of costs for the enforcement action are valid.

3. **Decision by Chief Building Official.** In determining whether the costs are valid, the Chief Building Official shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to:

a. Whether the present owner created the violation and/or has the ability to correct the violation; and/or

b. Whether the owner moved promptly to correct the violation or otherwise cooperated in the abatement of the nuisance.

4. **Appeal.** The property owner may apply for the review by the Agency Director, and thereafter appeal the decision to the Planning Commission by using the procedure in Section 17.60.110.

F. **Collection of Charges.** If no request for hearing is filed pursuant to subsection E of this section, or after a hearing or appeal the validity of the costs is affirmed, the property owner shall be liable to the County in the amount stated. Such costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the county. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

17.62.100 Additional processing fees.

Any person who establishes a use of land or erects, constructs, allows, enlarges, moves or maintains any building or structure without first having obtained any permit required by Chapters 15 or 17 of this Code, shall pay the additional permit processing fees established by the conditions of approval of such permit(s) or by the most

current Community Development Resource Agency fee schedule for the correction of violations, whichever is appropriate, before any permit for any building, structure or use on the site is issued. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

17.62.110 Enforcement procedures.

The code official is empowered to use any of the procedures described by Sections 17.62.120 through 17.62.180 where appropriate to correct violations of, and secure compliance with, the provisions of this Code. (Ord. 5126-B (part), 2001)

17.62.120 Initiation of enforcement action—Notice of violation.

The code official shall employ the procedures of this section in the initiation of enforcement action in cases where he or she has determined that real property within the unincorporated areas of the County is being used, maintained, or allowed to exist in violation of the provisions Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. It is the objective of these provisions to encourage the voluntary cooperation of responsible parties in the prompt correction of violations of this Code, so that the other enforcement measures provided by this Chapter may be avoided where prompt correction occurs.

A. Notice to Responsible Parties. The code official shall provide the Owner of the subject site and any person having possession or control of the site with a written notice of violation, which shall include the following information:

1. A time limit for correction of the violation pursuant to subsection B of this section;
2. A statement that the County intends to: (i) charge the property owner for all administrative costs associated with abatement of conditions defined as a nuisance by Section 17.62.160(A), pursuant to Section 17.62.090 (Recovery of costs); and/or (ii) issue a citation initiating a judicial or administrative action;
3. A statement that the property owner may request and be provided a meeting with the code official to discuss possible methods and time limits for the correction of identified violations.

B. Time Limit for Correction. The notice of violation pursuant to subsection A shall state that the violation must be corrected within thirty (30) days from the date of the notice to avoid further enforcement action by the county, unless the responsible party contacts the code official within that time to arrange for a longer period for correction. The thirty (30) day time limit may be extended at the discretion of the code official where he or she determines it is likely that the responsible party will correct the violation within a reasonable time. The notice may also state the requirement by the code official that correction shall occur within less than thirty days if the code official determines that the violation constitutes a hazard to health or safety.

C. Use of other Enforcement Procedures. The enforcement procedures of Sections 17.62.130 through 17.62.180 may be employed by the code official after or instead of the provisions of this section in any case where the code official determines that the provisions of this section would be ineffective in securing the correction of the violation within a reasonable time. (Ord. 5126-B (part), 2001)

17.62.130 Judicial citation.

The code official is authorized to issue a judicial citation in the form of a "Notice to Appear" to any person who violates any of the provisions of Chapters 5, 8, 12, 15, 16, 17 or 18 of the Placer County Code or who violates any conditions that apply to a land use permit issued by the County. Issuance of a judicial citation shall be pursuant to Article 1.16 of the Placer County Code. Penalties for violation are established by Section 17.62.040 (Penalties) of this Article. (Ord. 5126-B (part), 2001)

17.62.140 Forfeiture of bonds.

The code official may initiate procedures to forfeit all or a portion of a bond or cash deposit that has been required pursuant to Section 17.58.190 of this Chapter or to any other of the provision of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. (Ord. 5126-B (part), 2001)

17.62.150 *Injunction.*

The code official may work with County Counsel and/or the District Attorney to secure injunctive relief to terminate a violation of any of the provisions of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. (Ord. 5126-B (part), 2001)

17.62.160 *Nuisance abatement.*

The code official may employ the provisions of this section to secure the abatement of nuisances, as defined by this section.

A. Nuisance Defined. A “nuisance” shall be any of the following:

1. Any condition declared by a statute of the state of California or by an ordinance of Placer County to be a nuisance;
2. Any public nuisance known at common law or equity;
3. Any condition dangerous to human life, unsafe, or detrimental to the public health or safety;
4. Any use of land, buildings, or premises established, operated, or maintained contrary to the provisions of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code.

B. Notice of Nuisance. Upon the determination by the code official that a nuisance exists, a Notice of Nuisance may be prepared and copies served as provided by Section 17.62.080. A Notice of Nuisance shall include the following information:

1. A legal description and street address, assessor’s parcel number, or other description sufficient to identify the premises affected;
2. A description of the conditions causing the nuisance. Where the code official has determined that such conditions can be corrected or abated by repair or corrective action, the notice shall identify the repairs or corrective actions that will be required, and the time limit within which the nuisance must be corrected;
3. An order to complete abatement of the nuisance within thirty (30) days or other reasonable time period as determined by the code official;
4. A statement that if the nuisance is not corrected as specified, a hearing will be held before the Building Board of Appeals for violations of Chapter 15 of this Code or before the Planning Commission for violations of Chapter 17 of this Code, to consider whether to order abatement of the nuisance and to consider the levy of a special assessment which may be collected at the same time and in the same manner as is provided for the collection of ordinary county taxes pursuant to Section 25845 of the Government Code. Special assessments are subject to the same penalties, interest and procedures of foreclosure and sale in the case of delinquency as is provided for ordinary county taxes;
5. A statement that the County may charge the property owner for all administrative costs associated with abatement of the nuisance pursuant to Section 17.62.090;
6. Where the code official, in consultation with appropriate County officials, has determined that the condition causing the nuisance is imminently dangerous to life or limb, or to public health or safety, the notice may include an order that the affected property, building or structure shall be vacated, pending correction or abatement of the conditions causing the nuisance.

C. Notice of Nuisance Abatement. If, upon the expiration of the time specified in the Notice of Nuisance, action to abate the nuisance has not been commenced, or, if it has been commenced, it has not been prosecuted with due diligence nor completed within the time specified, the code official shall prepare a Notice of Nuisance Abatement, and serve such notice as provided by Section 17.62.080. The Notice of Nuisance Abatement shall contain the following:

1. A heading, “Notice of Nuisance Abatement”;

2. A notice to appear before hearing body identified in subsection (D)(1) of this section at a stated time and place to show cause why stated conditions should not be found to be a nuisance, and why the nuisance should not be abated by the code official;

3. The same information specified in subsection B of this section for a Notice of Nuisance.

D. Abatement Proceedings. When a Notice of Nuisance Abatement has been prepared and served pursuant to subsection C of this section, nuisance abatement shall proceed as follows:

1. Hearing. A hearing on nuisance abatement shall be conducted by the Building Board of Appeals for violations of Chapter 15 of this Code, and by the Planning Commission for violations of Chapter 17 of this Code. A decision to abate a nuisance shall be at the discretion of the applicable hearing body after a hearing is conducted pursuant to Section 17.62.070.

2. Order by Hearing Body. Upon the conclusion of the hearing, the appropriate hearing body may terminate the abatement proceedings or it may order:

a. That the owner or affected person shall abate the nuisance, prescribing a reasonable time (not less than thirty (30) days) for completion of abatement;

b. That a request for additional time to complete abatement by a person subject to an abatement order shall be granted only if the affected person guarantees abatement within the time to be granted by submitting a performance guarantee instrument acceptable to the hearing body (e.g., a letter of credit, a certificate of deposit, etc.) or, where applicable, a performance guarantee instrument pursuant to the requirements of Chapter 17 of this Code;

c. That, in the event abatement is not commenced, conducted and completed in accordance with the terms set by the hearing body, the code official is empowered and authorized to abate the nuisance.

3. Service of Order. The order of the hearing body shall be served as provided by Section 17.62.080(A), except that the order need not be posted on the property or recorded pursuant to Section 17.62.080(A)(3).

4. Commencement of Time Limits. The time limits set by the hearing body for completion of abatement or other required actions shall begin upon service of the notice, unless the order of the hearing body sets specific dates for completion of abatement.

5. Compliance with Order Required. It is unlawful and a violation of this Code for any person to fail to comply with the provisions of an order of the Building Board of Appeals or the Planning Commission pursuant to this section. The penalty for failure to comply with such an order shall be as set forth in Section 17.62.040 (Penalties).

E. Abatement Penalties and Costs. Upon expiration of the time limits established by subsection (D)(4) of this section, the code official shall acquire jurisdiction to abate the nuisance, and shall carry out the following as appropriate:

1. Disposal of Materials. Any materials in or constituting any nuisance abated by the code official may be disposed of, or if directed by the hearing body and where such materials are of substantial value, sold directly by the Administrative Services Department or Chief Building Official in a manner approved by County Counsel, or sold in the same manner as surplus county personal property is sold.

2. Account of Costs and Receipts and Notice of Assessment. The code official will keep an itemized account of the costs of enforcing the provisions of this section, and of the proceeds of the sale of any materials connected therewith. Upon completion of abatement, the code official shall prepare a notice to be served as provided in Section 17.62.080(A) and (B), specifying:

- a. The work done;
- b. An itemized account of the costs and receipts of performing the work;
- c. An address, legal description, or other description sufficient to identify the premises;
- d. The amount of the assessment proposed to be levied against the premises, or the amount to be returned, if any, from any performance guarantee instrument;
- e. The time and place where the code official will submit the account to the Board of Supervisors for confirmation. The time and place specified shall be not less than fifteen (15) days after service of the notice;
- f. A statement that the Board of Supervisors will hear and consider objections and protests to said account and proposed assessment or refund.

3. Hearing on Account and Proposed Assessment. At the time and place fixed in the notice, the Board

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of Supervisors will hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the Board may make such modifications and revisions of the proposed account and assessment as it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the Board as to all matters contained therein is final and conclusive.

4. Notice of Lien. Upon confirmation of an assessment by the Board, the code official shall notify the owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Board, and advise them that they may pay the account in full within thirty (30) days to the Chief Building Official in order to avoid the lien being recorded against the property. If the lien amount is not paid by the date stated in the letter, the code official shall prepare and have recorded in the office of the County Recorder of Placer County a Notice of Lien. The Notice of Lien shall contain:

a. A legal description, address and/or other description sufficient to identify the premises;
b. A description of the proceeding under which the special assessment was made, including the order of the Board confirming the assessment;

c. The amount of the assessment;
d. A claim of lien upon the described premises.

5. Lien. Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described premises, pursuant to Section 25845 of the Government Code. Such lien shall be at a parity with the liens of state and county taxes.

6. Collection With Ordinary Taxes. After recordation, the Notice of Lien shall be delivered to the County Auditor, who will enter the amount of the lien on the assessment roll as a special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary county taxes, and is subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as are provided for ordinary county taxes; all laws applicable to the levy, collection and enforcement of county taxes are hereby made applicable to such assessment. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

17.62.170 Permit revocation.

The code official may initiate proceedings as provided by this section to revoke the approval of any land use permit issued pursuant to any provision of Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code, in any case where it is determined that the permit was obtained through misrepresentation, or where a use of land has been established or is conducted in a manner that violates or fails to comply with the provisions of this Code or a condition of approval, or where the use of land is undertaken in violation of any local, state or federal law which affects the health, safety, peace, morals or general welfare of the public.

A. Notice of Revocation. The code official shall notify the permittee of the intended revocation of the approval of a land use permit at least twenty-one (21) days before a revocation hearing (Section 17.62.070, Enforcement hearings). Such notice shall contain the following:

1. A heading reading, "Notice of Revocation Hearing";
2. The provisions and/or conditions violated and the means to correct the violation(s), if any;
3. The date and place of the revocation hearing.

B. Revocation Hearing. Before any action is taken to revoke an approved land use permit, a hearing shall be conducted pursuant to Section 17.62.070. If the land use permit to be revoked is a conditional use permit, the revocation hearing shall be conducted by the Planning Commission. If revocation of a minor use permit, an administrative review permit or zoning clearance is being considered, the hearing shall be conducted by the Agency Director or designee acting as Zoning Administrator.

C. Action to Revoke. If, after the revocation hearing has been conducted, the hearing body finds that grounds for revocation have been established, the hearing body may:

1. Allow the permitted additional time to correct the violation or noncompliance; or
2. Modify conditions of approval on the basis of evidence presented at the hearing; or
3. Revoke the approved land use permit and order the discontinuance or removal of the approved use within a time specified by the hearing body. In the absence of an appeal pursuant to subsection D of this section, the

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revocation shall become effective fourteen (14) days after the action of the hearing body. Upon the effective date of revocation, the code official shall initiate nuisance abatement proceedings by preparing and serving a notice of nuisance pursuant to Section 17.62.160(B), with the time limit for action by the permittee specified in the notice being that set by the hearing body in the revocation order.

D. Appeal. The permittee may appeal the decision of the hearing body to the Board of Supervisors. Upon appeal, revocation shall not take effect until affirmed by the Board. After the hearing, the Board may affirm, modify or reverse the decision to revoke the permit.

E. Use after Revocation. When an approved land use permit has been revoked, no further development or use of the property authorized by the revoked permit shall be continued, except pursuant to approval of a new land use permit and any other authorizations or permits required by Chapters 5, 8, 12, 15, 16, 17 or 18 of this Code. (Ord. 5373-B (part), 2005; Ord. 5126-B (part), 2001)

17.62.180 Administrative citation

This section provides for the issuance of administrative citations and imposition of fines as authorized by State law, and is in addition to all other legal remedies, criminal or civil, which may be pursued by the County. The code official is authorized by the Board of Supervisors to employ the provisions of this section and issue an administrative citation to any person who violates any provision of Chapters 5, 8, 12, 15, 16, 17, or 18 of this Code and for nuisances defined in section 17.62.160(A).

A. Warning of an Administrative Citation.

1. Whenever the code official determines that a violation has occurred, the code official shall issue a warning of an administrative citation to the Owner and, if known, any other person responsible for the violation as a prerequisite to the issuance of a first administrative citation.
2. A warning shall not be required before the issuance of a second or any subsequent administrative citation for a continuing or repeated violation.
3. A warning shall include all of the information mandated by section 17.62.120.
4. A notice of violation pursuant to section 17.62.120 shall constitute a warning under this subsection.

B. Administrative Citation.

1. Whenever the code official determines that a violation has occurred, the code official may issue an administrative citation to the Owner of the property after any required warning has first been issued. Each and every day during which a violation is committed, continued or permitted shall constitute a separate violation. An administrative citation may contain more than one allegation of violation.
2. Each administrative citation shall contain the following information:
 - a. The date(s) of the violation;
 - b. The address, or APN, and description of the location where the violation occurred;
 - c. The code section(s) violated, a description of the violation, and the dates the violation has occurred;
 - d. The date, location, and time of the hearing for which these matters are to be heard before the Placer County Hearing Officer;
 - e. A description of the administrative citation review process, including the potential maximum amount of the fine that may be assessed by the hearing officer; and
 - f. The name and signature of the citing code official.

C. Service of Warning or Administrative Citation. Service of a warning or an administrative citation may be accomplished as provided for in section 17.62.080. Where personal service is used, the signature of the Owner or person in apparent possession or control of the subject site may be obtained on the administrative citation. If the

Owner or person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of service nor of the citation and subsequent proceedings.

D. Hearing

1. Hearing Officer. "Hearing Officer" shall mean the person or persons appointed by the Agency Director to preside over an administrative hearing provided for in this section.
2. Hearing Procedure. The procedure for hearings shall otherwise be the same as set forth in Section 17.62.070, and:
 - a. At the hearing, the party issued the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation;
 - b. The failure of the party issued the administrative citation to appear at the administrative citation hearing shall constitute a failure to exhaust administrative remedies;
 - c. The administrative citation and any additional report submitted by the code official shall constitute prima facie evidence of the respective facts contained in those documents. The code official is required to appear at an administrative citation hearing;
 - d. The Hearing Officer may continue the hearing to receive additional information prior to issuing a written decision;
 - e. The hearing need not be conducted according to technical rules relating to evidence and witnesses.
3. Hearing Officer's Decision.
 - a. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to uphold, uphold in part or deny the administrative citation and shall list in the decision the reasons for that decision.
 - b. If the Hearing Officer determines that the administrative citation should be upheld, the Hearing Officer may: issue an order prohibiting the continuance of conditions constituting the violation, impose a fine for each day the violation has occurred or will continue to occur, suspend payment of any fine contingent upon correction of the violation within a specified time period, or take such other action with respect to imposing a fine in accordance with this Article as will facilitate correction of the violation.
 - c. The Hearing Officer shall serve a copy of the decision to the Owner and the County.
 - d. The decision of the Hearing Officer as to the finding of a violation pursuant to subsection (a), above, shall be conclusive and final. The decision of the Hearing Officer as to the imposition of penalties pursuant to subsection (b), above, may be appealed to the Planning Commission by any person responsible for correction of the violation or payment of the fine, but the decision of the Hearing Office as to uphold, uphold in part or deny the administrative citation pursuant to subsection (a), above, shall be final.
4. Appeal to Planning Commission of Penalty Only. An appeal of the penalty to the Planning Commission must be filed within twenty (20) calendar days from the date of service of the Hearing Officer's written decision, accompanied by the appeal fee established in the Planning Department's fee schedule. The Planning Commission may uphold, uphold in part or deny the appeal and shall list in the decision the reasons for that decision. The failure of any cited party to properly file a request for appeal within the time specified in this subsection shall constitute a waiver of the right to further review and adjudication of the penalty or any portion thereof. The procedure for appeal to the Planning Commission shall otherwise be the same as set forth in Section 17.60.110. The decision of the Planning Commission as to penalties shall be final.
5. Right to Judicial Review. Any cited party aggrieved by the final decision of the Hearing Officer or of the Planning Commission on an administrative citation may obtain review of the administrative decision in accordance with the timelines and provisions set forth in California Government Code section 53069.4.

E. Amount of Fines.

1. The fine for code violation(s) imposed pursuant to this section shall be up to one hundred dollars (\$100.00) for each violation contained in the first administrative citation; up to five hundred dollars (\$500.00)

for each violation contained in a second administrative citation issued for violation of the same ordinance or other provision on the same property, within one year of the final date that a prior administrative citation for a violation of the same provision on the same property was upheld (in whole, part, or as modified) or uncontested; up to one thousand dollars (\$1,000.00) for each violation contained in a third or subsequent administrative citation issued for violation of the same ordinance or other provision on the same property, within one year of the final date that a prior administrative citation for a violation of the same provision on the same property was upheld (in whole, part, or as modified) or uncontested. The fine amounts shall be cumulative where multiple citations are issued.

2. A late payment charge shall be paid to the County in the amount specified in subsection G, if a fine has not been paid in full to the County on the date on which it is due.

F. Payment of the Fine.

1. The fine shall be paid to the County in accordance with the payment schedule as determined by the decision of the Hearing Officer or the Planning Commission.
2. Payment of a fine under this section shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation.

G. Collection Administration Charge. Any cited party who fails to pay to the County any fine imposed pursuant to the provisions of this section on or before the date that fine is due shall also be liable for the payment of a collection administration charge in the amount of ten percent (10%) of the total fine amount owed.

H. Recovery of Administrative Citation Fines and Collection Costs. The County may also recover its costs and collection costs pursuant to section 17.62.090. The failure of any cited party to pay a fine assessed by an administrative citation or a collection administration charge by the due date shall constitute a "Debt to the County." The County may seek payment of the Debt by use of all available legal means, including but not limited to the following:

1. The County may refer the Debt for collection.
2. The County may file a civil action in a court of law to recover the debt.
3. The County may impose an assessment and record a code enforcement lien upon the real property upon which the violation is located pursuant to the procedures provided in section 17.62.160(E)(4).